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September 13, 1989

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The Honorable Alfred C. Sikes
Chairman
Federal Communications Commission
1919 M Street, Northwest
Room 814
Washington, D.C. 20554

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In Re: Request of A. C. Nielsen for Special
Temporary Authority (DA 89-1060)

Dear Mr. Chairman:

By this letter, we wish to register the objections of our client, VidCode Incorporated ("VidCode"), to the request of A.C. Nielsen Company ("Nielsen") for special temporary authority ("STA") to encode Line 22 of television broadcast signals.

In general, VidCode associates itself with the position taken by Airtrax in its filings herein. As a company utilizing Line 22 of the television broadcast signal for commercial verification, VidCode would (like Airtrax) suffer immense and possibly irreparable damage through the grant of STA authority to, and its use by, Nielsen. As such, VidCode must be given, at a minimum, a fair opportunity to comment on Nielsen's request. If the STA were granted on the schedule now demanded by Nielsen, however, VidCode would be denied such an opportunity to comment.

VidCode was not notified of this proceeding until Friday, September 8. Although VidCode was generally known to be a directly interested party, VidCode has not been served with filings, and particularly was not served with Nielsen's filings requesting this STA and its many other ex parte communications. For this reason, VidCode has not had an opportunity to comment until now. VidCode intends to file comments by the September 22 deadline set forth in the Commission's September 1 public notice.

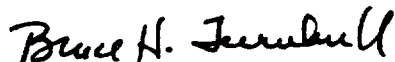
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The grant of this subsequent, unpublicized, unnotified request before that date would vitiate VidCode's opportunity to comment and would prejudice the outcome of the comment process.

Nor has Nielsen shown any basis for expediting this proceeding. While Nielsen asserts that public comment is unnecessary, the Commission has already observed that it "has always requested public comment on systems proposing to use line 22." Public Notice of September 1. Many parties have registered interest in and objection to Nielsen's request (although to the best of our knowledge no party has supported Nielsen in its request). Due process demands that these objectors be given a fair opportunity to comment. Lastly, Nielsen has failed to show that adherence to the original schedule set by the Commission will cause it cognizable prejudice. To the contrary, Nielsen claims prejudice only by reason of a delay in testing the system. Any such delay is directly attributable to the timing of Nielsen's original and supplementary request which was totally within Nielsen's control. In accordance with the original schedule, such delay will involve at most a few weeks, if Nielsen is successful in pressing its case before the Commission. And if the numerous objectors to Nielsen's request prevail before the Commission, Nielsen would avoid unnecessary costs associated with the testing.

In fairness to VidCode and the other objectors to Nielsen's request, Nielsen's request for STA should be denied until the Commission has provided a full opportunity for public comment in accordance with the Commission's Public Notice of September 1.

Very truly yours,



Bruce H. Turnbull

cc: The Honorable James H. Quello (by hand)
Member, Federal Communications Commission
1919 M Street, Northwest, Room 802

The Honorable Patricia Diaz Dennis (by hand)
Member, Federal Communications Commission
1919 M Street, Northwest, Room 832

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1919 M Street, Northwest, Room 844

The Honorable Andrew Barrett (by hand)
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